

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TUXIS TECHNOLOGIES, LLC,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Tuxis Technologies, LLC (“Tuxis Technologies”), for its Complaint against Defendant Amazon.com, Inc. (“Amazon.com”), hereby alleges as follows:

The Parties

1. Plaintiff Tuxis Technologies is a Delaware limited liability company with its principal place of business at 101 Hudson Street, Suite 2100, Jersey City, NJ, 07302.

2. Defendant Amazon.com is a corporation organized and existing under the laws of Delaware with its principal place of business in Seattle, WA.

Nature Of The Action

3. This is a civil action for infringement of a United States patent, arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

Jurisdiction And Venue

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because the defendant resides in this district, is subject to personal jurisdiction in this district, and has committed acts of infringement in this district.

The Patent-In-Suit

6. United States Patent No. 6,055,513 (“the ’513 patent”), entitled “Methods and Apparatus for Intelligent Selection of Goods and Services in Telephonic and Electronic Commerce,” was duly and legally issued by the United States Patent and Trademark Office on April 25, 2000. A copy of the ’513 patent is attached hereto as Exhibit A.

7. Plaintiff Tuxis Technologies is the exclusive owner of all rights, title, and interest in the ’513 patent and has the right to bring this suit to recover damages for any current or past infringement of the ’513 patent.

COUNT I

Infringement Of The ’513 Patent

8. Paragraphs 1 through 7 are incorporated by reference as if fully stated herein.

9. The ’513 patent is valid and enforceable.

10. Amazon.com has infringed, and continues to infringe, one or more claims of the ’513 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products and/or methods encompassed by those claims, including for example the Amazon.com website (www.amazon.com) with recommendation features.

11. Third parties, including Amazon.com’s customers, have infringed, and continue to infringe, one or more claims of the ’513 patent under 35 U.S.C. § 271(a), either literally and/or

under the doctrine of equivalents, by using the Amazon.com website (www.amazon.com) with recommendation features.

12. Amazon.com has had knowledge of and notice of the '513 patent and its infringement through, for example, letters sent by Tuxis Technologies to Amazon.com on April 5, 2013, and June 20, 2013. In addition, the '513 patent has been cited in connection with prosecution of Amazon.com's own patents, for example U.S. Patent No. 7,908,183 and U.S. Patent No. 8,024,222.

13. Amazon.com has induced infringement, and continues to induce infringement, of one or more claims of the '513 patent under 35 U.S.C. § 271(b). Amazon.com actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '513 patent by providing the Amazon.com website (www.amazon.com) with recommendation features; with the knowledge and intent that third parties will use the Amazon.com website (www.amazon.com) with recommendation features for its intended purpose to infringe the '513 patent; and with the knowledge and intent to encourage and facilitate the infringement by providing the Amazon.com website (www.amazon.com) with recommendation features, marketing and publicizing the Amazon.com website (www.amazon.com) with recommendation features, and/or the creation and dissemination of documentation and technical information related to the Amazon.com website (www.amazon.com) with recommendation features.¹

14. Tuxis Technologies has been and continues to be damaged by Amazon.com's infringement of the '513 patent.

15. Amazon.com's infringement of the '513 patent was, and continues to be, willful.

¹ See, e.g., <http://www.amazon.com/gp/help/customer/display.html?nodeId=16465251>; <http://www.amazon.com/gp/help/customer/display.html?nodeId=13316081>.

16. Amazon.com's conduct in infringing the '513 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Prayer For Relief

WHEREFORE, Tuxis Technologies prays for judgment as follows:

- A. That Amazon.com has infringed the '513 patent;
- B. That Tuxis Technologies be awarded all damages adequate to compensate it for Amazon.com's infringement of the '513 patent, such damages to be determined by a jury and, if necessary to adequately compensate Tuxis Technologies for the infringement, an accounting, and that such damages be trebled and awarded to Tuxis Technologies with pre-judgment and post-judgment interest;
- C. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Tuxis Technologies be awarded the attorney fees, costs, and expenses incurred in connection with this action; and
- D. That Tuxis Technologies be awarded such other and further relief as this Court deems just and proper.

Demand For Jury Trial

Plaintiff Tuxis Technologies hereby demands a trial by jury on all issues so triable.

Dated: October 29, 2013

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 North Market Street
12th Floor
Wilmington, DE 19801
Telephone: 302-777-0300
Facsimile: 302-777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

*Attorneys for Plaintiff
Tuxis Technologies, LLC*

Of Counsel:

Jon T. Hohenthanner
Andrew G. Heinz
DESMARAIS LLP
230 Park Avenue
New York, NY 10169
Telephone: 212-351-3400
Facsimile: 212-351-3401
jhohenthanner@desmaraisllp.com
aheinz@desmaraisllp.com